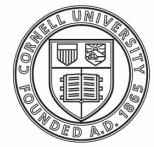

5-14-1976

State of New York Public Employment Relations Board Decisions from May 14, 1976

New York State Public Employment Relations Board

State of New York Public Employment Relations Board Decisions from May 14, 1976

Keywords

NY, NYS, New York State, PERB, Public Employee Relations Board, board decisions, labor disputes, labor relations

STATE OF NEW YORK
PUBLIC EMPLOYMENT RELATIONS BOARD

In the Matter of VILLAGE OF JOHNSON CITY, -and- LOCAL 921, INTERNATIONAL ASSOCIATION OF FIREFIGHTERS, AFL-CIO, Charging Party.	#2A-5/14/76 BOARD DECISION AND ORDER CASE NO. U-2001

The charge herein which was filed by the Village of Johnson City (Village) on February 9, 1976, alleges that Local 921, Internation Association of Firefighters, AFL-CIO (Local 921) refused to negotiate in good faith in violation of CSL Section 209-a.2(b) by improperly insisting upon the negotiation of a matter that is not a mandatory subject of negotiations. The demand of Local 921 alleged by the Village not to constitute a mandatory subject of negotiations is for a minimum manpower standard of 12 paid firemen on duty at all times. The conduct alleged to constitute improper insistence was the presentation of this demand to an arbitrator who was appointed pursuant to CSL Section 209.4.

In an interim decision made on April 27, 1976 (9 PERB ¶3040), we denied the motion of Local 921 to dismiss the charge either on the ground that it was time barred by reason of being filed more than four months after the minimum manpower demand was first made or that the Village had waived its right to object to the nonmandatory nature of the minimum manpower demand. We invited the parties to submit their arguments on the merits of the demand within 10 working days of the receipt of that interim decision. The attorney for Local 921 advises us now by telephone that he is not submitting any brief

and the attorney for the Village has done so. Considering the merits of the dispute of whether the demand is a mandatory subject of negotiations, we note that we have considered demands for manpower standards in the past, most recently in Matter of White Plains PBA, 9 PERB ¶3007 (1976). On the reasoning set forth in that and in other decisions cited in that opinion, we determine that the demand herein is not a mandatory subject of negotiations and that it should not be insisted upon during negotiations.

WE ORDER Local 921 to negotiate in good faith with the Village.

Dated: Albany, New York
May 14, 1976

Robert D. Helsby, Chairman

Joseph R. Crowley

Fred L. Denson

5742

STATE OF NEW YORK

PUBLIC EMPLOYMENT RELATIONS BOARD

50 WOLF ROAD

ALBANY, N.Y. 12205

JEROME LEFKOWITZ
DEPUTY CHAIRMAN

May 14, 1976

#4-5/14/76

COPY FORWARDED TO STATE REPORTER
5/18, 1976

RECEIVED MISC. MAY 17 1976 RECORDS DEPARTMENT OF STATE

Hon. Mario Cuomo
Secretary of State
162 Washington Avenue
Albany, New York

Dear Mr. Cuomo:

I am transmitting herewith, for filing in your office, the original and three copies of amendments to the Rules of Procedure of the Public Employment Relations Board which were adopted by the Board on May 14, 1976, to become effective on May 17, 1976 and promulgated by the Public Employment Relations Board on that date.

Very truly yours,

Jerome Lefkowitz

Jerome Lefkowitz
Deputy Chairman

STATE OF NEW YORK
DEPARTMENT OF STATE
FILED MAY 17 1976
Secretary of State

JL/lc
Attchs.

Copy of this filing returned "in hand" by messenger as filing receipt E. Lindsay

4318

Pursuant to and by virtue of the authority vested in the Public Employment Relations Board under Article 14 of the Civil Service Law, I, Robert D. Helsby, Chairman of the Public Employment Relations Board, acting on behalf of such Board, hereby amend NYCRR Title 4, Chapter VII, Part 205, as follows. Any parts of the Rules of the Board not explicitly mentioned herein remain in effect as previously promulgated. These amendments shall take effect on May 17, 1976.

Section 205.5 is hereby amended as follows:

§205.5 Compulsory Interest Arbitration; Response.

(a) Filing. A response shall be filed within [five] ten working days of receipt of the petition requesting arbitration. It shall be served upon the petitioning party simultaneously.

(b) Contents. [(1)] Such response shall set forth respondent's position [regarding] specifying the terms and conditions of employment that were resolved by agreement, and as to those that were not agreed upon [.] , respondent shall set forth its position. Proposed contract language may be attached. If the respondent has filed an improper practice charge related to compulsory interest arbitration under section 205.6 of these Rules, the response shall contain a reference to such charge.

[(2) The response may also raise objections to the arbitrability of any of the matters raised in the petition and to any statement in the petition alleging agreement as to terms and conditions of employment.]

Section 205.6 is hereby amended as follows:

§205.6 Improper Practice Charges Related to Compulsory Interest Arbitration; Objections to Arbitrability.

(a) [A charge filed by either party alleging violation of section 209-a.1(d) or section 209-a.2(b) of the Act which raises questions of arbitrability will be accorded expedited treatment in the manner set forth in section 204.4 of these Rules. If filed by the respondent, such a charge may not be filed after the date of the filing of its response; if filed by the petitioner, such a charge may not be filed more than five working days after its receipt of the response.]

Objections to Arbitrability. Objections to the arbitrability of any matter set forth in the petition or response may only be raised by the filing of an improper practice charge pursuant to the requirements of this section. Objections as to arbitrability may include, but not be limited to, the following circumstances: (1) a matter proposed is not a mandatory subject of negotiations; (2) a matter proposed was not the subject of negotiations prior to the petition; (3) a matter proposed had been resolved by agreement during the course of negotiations.

(b) Charge. The proposed arbitration of any matter set forth in the petition or response may be objected to by either party as being violative of section 209-a.1(d) or section 209-a.2(b) of the Act by filing an improper practice charge pursuant to section 204.1 of these Rules. Section 204.1(b)(4) shall not apply. The matter shall be accorded expedited treatment. If filed by the respondent, such a charge may not be filed after the date of the filing of the response filed in accordance with section 205.5 of these Rules; if filed by the petitioner, such a charge may not be filed more than ten working days after its receipt of the response.

[(b)] (c) The public arbitration panel shall not make any award on issues, the arbitrability of which is the subject of an improper practice charge, until final determination thereof by the Board or withdrawal of the charge; [it] the panel may make an award on other issues.

I hereby certify that these amendments were adopted by the Public Employment Relations Board on May 14, 1976.

Robert D. Helsby
Chairman
Public Employment Relations Board